

THURSDAY, MARCH 25, 2004
SEVENTY-FOURTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Reverend Ronald Guthrie of Clinton, Tennessee, a guest of Senator Kilby.

PLEDGE OF ALLEGIANCE

Senator Harper led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 29

Senators present were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

COMMUNICATION

March 24, 2004

The Honorable John S. Wilder
Lt. Governor and Speaker of the Senate
One Legislative Plaza
Nashville, TN 37243

Dear Governor Wilder:

Please excuse my absence from the Senate Session meeting on Thursday, March 25, at 9:00 a.m.

Commissioner Flowers of the Department of Commerce and Insurance along with Bradley Jackson, Liaison for the Department of Financial Institutions, Speaker Pro Tem DeBerry, Senators Trail and possibly Norris as well as Representative Charles Sargent will be flying to DC for the annual CSBS fly-in. They have graciously asked me to attend. We will be departing Nashville at 7:00 a.m., Thursday, March 25.

Thank you for your consideration.

Sincerely,

/s/ Steve Southerland

APPROVED: Lieutenant Governor
John S. Wilder

INTRODUCTION OF BILLS

The Speaker announced that the following bills were filed for introduction and passed first consideration:

Senate Bill No. 3489 by Senator McLeary.

Trenton -- Subject to local approval, increases tax rate for the Trenton special school district from \$1.71 to \$1.87 per \$100 of assessed value. Amends Chapter 144 of the Private Acts of 1975; as amended.

Senate Bill No. 3490 by Senator Herron.

Stewart County -- Subject to local approval, authorizes Stewart County to impose a privilege tax of 5 percent upon the privilege of occupancy in any hotel.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 2450 -- Sunset Laws -- Sex offender treatment board, June 30, 2010.

Amends TCA Title 4, Chapter 29 and Title 39, Chapter 13.

House Bill No. 2555 -- Highways, Roads and Bridges -- Designates a segment of U.S. 412

(State Route 20) as "Hearn's Lane".

House Bill No. 2635 -- Local Education Agency -- Requires LEAs to devise policies and

procedures to encourage parental involvement in public schools. Amends TCA Title 49, Chapter 2, Part 3.

House Bill No. 3462 -- Montgomery County -- Subject to local approval, permits

Montgomery County trustee by agreement with court clerk to continue to collect delinquent taxes after suit has been filed until property is sold. Amends TCA Section 67-5-2404.

House Bill No. 3487 -- Livestock -- Adds "equine" to definition of livestock; increases penalty

for operating as livestock dealer without a valid license to Class A misdemeanor.

House Bill No. 3571 -- Greene County -- Subject to local approval, increases hotel

occupancy tax from 3 percent to 7 percent and reallocates proceeds. Amends Chapter 127 of the Private Acts of 1986; as amended.

House Bill No. 3572 -- Kenton -- Subject to local approval, changes terms of trustees from

two years to staggered terms of four years and increases grade level of school authorized for operation by special district from third grade to fifth grade. Amends Chapter 84 of the Public Acts of 1947; as amended.

House Bill No. 3574 -- Campbell County -- Subject to local approval, authorizes imposition

of hotel/motel tax in an amount not to exceed 5 percent of the consideration charged to a transient.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 3487 held on desk.

Senate Bill No. 3488 referred to Committee on Delayed Bills.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 879 by Senator McLeary.
Memorials, Congratulations -- Maytag Jackson Dishwashing Plant, Shingo Award.

Senate Joint Resolution No. 880 by Senator Herron.
Memorials, Death -- Rebecca Sue Cochran Pinion.

Senate Resolution No. 144 by Senator Kurita.
Memorials, Academic Achievement -- Rebecca J. McClure, Salutatorian, Clarksville High School.

Senate Resolution No. 145 by Senator Kurita.
Memorials, Academic Achievement -- Thomas Kim, Valedictorian, Clarksville High School.

RESOLUTIONS LYING OVER

House Joint Resolution No. 999 -- Memorials, Professional Achievement -- Janice Loy Walker, State Assistant Principal of the Year.

The Speaker announced that he had referred House Joint Resolution No. 999 to Committee on Calendar.

House Joint Resolution No. 1000 -- Memorials, Death -- James R. Cannon.

The Speaker announced that he had referred House Joint Resolution No. 1000 to Committee on Calendar.

House Joint Resolution No. 1001 -- Memorials, Death -- Sergeant Roger Dale Rowe.

The Speaker announced that he had referred House Joint Resolution No. 1001 to Committee on Calendar.

House Joint Resolution No. 1003 -- Naming and Designating -- Establishes Sunday falling during National Fire Prevention Week in October of each year as "Firefighters' Memorial Day" in Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 1003 to Committee on State and Local Government.

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House Joint Resolution No. 1004 -- Memorials, Professional Achievement -- Marian Hale, McMinn County Teacher of the Year.

The Speaker announced that he had referred House Joint Resolution No. 1004 to Committee on Calendar.

House Joint Resolution No. 1005 -- Memorials, Public Service -- Brandi Robinson.

The Speaker announced that he had referred House Joint Resolution No. 1005 to Committee on Calendar.

House Joint Resolution No. 1007 -- Memorials, Death -- Julia Fandrich.

The Speaker announced that he had referred House Joint Resolution No. 1007 to Committee on Calendar.

House Joint Resolution No. 1008 -- Memorials, Professional Achievement -- Patty Littlejohn, 2003 Presidential Award for Math and Science Teaching.

The Speaker announced that he had referred House Joint Resolution No. 1008 to Committee on Calendar.

House Joint Resolution No. 1010 -- Memorials, Congratulations -- Heather Pearson, Mule Day Queen 2004.

The Speaker announced that he had referred House Joint Resolution No. 1010 to Committee on Calendar.

House Joint Resolution No. 1014 -- Memorials, Recognition -- Gwendolyn E. Boyd, Memphis Alumnae Association Chapter of Delta Sigma Theta Sorority, Inc. Founders Day Speaker.

The Speaker announced that he had referred House Joint Resolution No. 1014 to Committee on Calendar.

House Joint Resolution No. 1016 -- Memorials, Congratulations -- Pope John Paul II High School women's soccer team.

The Speaker announced that he had referred House Joint Resolution No. 1016 to Committee on Calendar.

House Joint Resolution No. 1017 -- Memorials, Congratulations -- Hendersonville High School women's soccer team.

The Speaker announced that he had referred House Joint Resolution No. 1017 to Committee on Calendar.

House Joint Resolution No. 1018 -- Memorials, Personal Achievement -- James Clinton Denny IV, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1018 to Committee on Calendar.

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House Joint Resolution No. 1019 -- Memorials, Personal Achievement -- Nikolas Linas Adams, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1019 to Committee on Calendar.

House Joint Resolution No. 1020 -- Memorials, Personal Achievement -- Michael Ryan Smith, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1020 to Committee on Calendar.

House Joint Resolution No. 1021 -- Memorials, Personal Achievement -- Paul Arthur Hatcher, Jr., Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1021 to Committee on Calendar.

House Joint Resolution No. 1022 -- Memorials, Personal Achievement -- Mathew R. Smith, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1022 to Committee on Calendar.

House Joint Resolution No. 1023 -- Memorials, Personal Achievement -- Matthew Adrian Grobe, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 1023 to Committee on Calendar.

House Joint Resolution No. 1024 -- Memorials, Death -- Mrs. Mary Frances Robinson.

The Speaker announced that he had referred House Joint Resolution No. 1024 to Committee on Calendar.

Senate Joint Resolution No. 873 -- Memorials, Academic Achievement -- Allen Claiborne Vantrease, Valedictorian, Gallatin High School.

The Speaker announced that he had referred Senate Joint Resolution No. 873 to Committee on Calendar.

Senate Joint Resolution No. 874 -- Memorials, Academic Achievement -- Kirsten O'Neal, Valedictorian, Station Camp High School.

The Speaker announced that he had referred Senate Joint Resolution No. 874 to Committee on Calendar.

Senate Joint Resolution No. 875 -- Memorials, Academic Achievement -- Alana Benet Hibbler, Salutatorian, Station Camp High School.

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The Speaker announced that he had referred Senate Joint Resolution No. 875 to Committee on Calendar.

Senate Joint Resolution No. 876 -- Memorials, Sports -- Livingston Academy Lady Wildcats, 2004 TSSAA Class AA Basketball State Champions.

The Speaker announced that he had referred Senate Joint Resolution No. 876 to Committee on Calendar.

Senate Joint Resolution No. 877 -- Memorials, Retirement -- Rev. Adam Hall.

The Speaker announced that he had referred Senate Joint Resolution No. 877 to Committee on Calendar.

Senate Joint Resolution No. 878 -- Memorials, Academic Achievement -- Ashley DeBord, Salutatorian, Bledsoe County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 878 to Committee on Calendar.

Senate Resolution No. 141 -- Memorials, Academic Achievement -- Ashleigh Toro, Valedictorian, Clarksville Academy.

The Speaker announced that he had referred Senate Resolution No. 141 to Committee on Calendar.

Senate Resolution No. 142 -- Memorials, Academic Achievement -- Thomas Philip Madaell, Salutatorian, Clarksville Academy.

The Speaker announced that he had referred Senate Resolution No. 142 to Committee on Calendar.

Senate Resolution No. 143 -- Memorials, Academic Achievement -- Joseph Woodfin, Valedictorian, South Pittsburg High School.

The Speaker announced that he had referred Senate Resolution No. 143 to Committee on Calendar.

CONSENT CALENDAR

House Joint Resolution No. 849 -- Memorials, Recognition -- Hamblen County, 2003 School Board of the Year.

House Joint Resolution No. 985 -- Memorials, Recognition -- Steve West, 2004 Senior Citizens Home Assistance Services Blount County Person of the Year.

House Joint Resolution No. 986 -- Memorials, Public Service -- White House Chamber of Commerce, 20th anniversary.

House Joint Resolution No. 987 -- Memorials, Retirement -- Vivian Smith.

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House Joint Resolution No. 988 -- Memorials, Recognition -- Christina Ivey.

House Joint Resolution No. 989 -- Memorials, Recognition -- Old Union Church of Christ, 170th anniversary.

House Joint Resolution No. 991 -- Memorials, Recognition -- Charles Stahl.

House Joint Resolution No. 992 -- Memorials, Heroism -- Staff Sergeant Kevin L. Houser, United States Army.

House Joint Resolution No. 993 -- Memorials, Recognition -- Eloise Waters.

House Joint Resolution No. 994 -- Memorials, Public Service -- Sharon J. Miller, 2004 National Conference for Community and Justice Humanitarian Award.

House Joint Resolution No. 995 -- Memorials, Congratulations -- Joseph E. Kurtz.

House Joint Resolution No. 996 -- Memorials, Personal Occasion -- Hans Fischer, 60th birthday.

Senate Joint Resolution No. 866 -- Memorials, Heroism -- HHSB, 2-1158 Field Artillery, Forward Deployment, Henderson.

Senate Joint Resolution No. 867 -- Memorials, Heroism -- HHSB, 2-115 Field Artillery, Henderson.

Senate Joint Resolution No. 868 -- Memorials, Congratulations -- Bolivar Central High School, Class AA Basketball State Championship.

Senate Joint Resolution No. 870 -- Memorials, Heroism -- 731st Ordnance Detachment, Tennessee National Guard of Chattanooga.

Senate Joint Resolution No. 871 -- Memorials, Heroism -- 1-181 Field Artillery Battalion, Tennessee National Guard of Chattanooga.

Senate Resolution No. 139 -- Memorials, Academic Achievement -- Megan Elaine Lunsford, Salutatorian, Oliver Springs High School.

Senate Resolution No. 140 -- Memorials, Academic Achievement -- Brianne Nichole Lankford, Valedictorian, Oliver Springs High School.

Senator Crowe moved that all Senate Joint Resolutions and Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

CALENDAR

Senator Fowler moved that **Senate Joint Resolution No. 127** be placed on the calendar for Wednesday, March 31, 2004, which motion prevailed.

House Joint Resolution No. 858 -- General Assembly, Directed Studies -- Requests comptroller to study issues relative to procurement, utilization and production of asphalt by Tennessee counties and report findings no later than February 1, 2005.

House Joint Resolution No. 858 was concurred in by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

Senate Bill No. 2379 -- Civil Procedure -- Enacts the "Commonsense Consumption Act".

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting from Section 2(e) of the printed bill the language "In any action exempted under subsection (b), all discovery and other proceedings shall be stayed" and by substituting instead the following:

In any action exempted under subsection (a), all discovery and other proceedings shall be stayed

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2379**, as amended, passed its third and final consideration by the following vote:

Ayes 28
Noes 0
Present, not voting . . . 1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--28.

Senator present and not voting was: Dixon--1.

A motion to reconsider was tabled.

Senator Norris moved that **Senate Bill No. 2446** be placed on the calendar for Wednesday, March 31, 2004, which motion prevailed.

Senate Bill No. 2637 -- Fiscal Review Committee -- Requires committee to review and discuss any audit of the comptroller within three months of release. Amends TCA Title 3, Chapter 7, Part 1.

Senator Bryson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 7, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 3-7-113. The fiscal review committee shall review and discuss any audit of a department, agency or institution of this state prepared by the comptroller of the treasury pursuant to § 8-4-109 subject to the following:

(a) The fiscal review staff shall first review all audits of state departments, agencies or institutions prepared by the comptroller pursuant to § 8-4-109, in conjunction with the chair or chairs of the fiscal review committee or their selected designees, for analysis and selection of such audits as deemed necessary for formal review by the fiscal review committee.

(b) Except in extraordinary circumstances, all audit reviews by the staff and committee pursuant to this section shall be conducted while the general assembly is not in session.

(c) This section does not limit the jurisdiction of the committee to review matters contained in other audits performed by the comptroller.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2637**, as amended, passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

Senate Bill No. 2670 -- Tobacco Master Settlement Agreement -- Revises method for tobacco manufacturer not participating in master settlement agreement to use in establishing overpayment of funds into escrow account and thus have such excess funds released from escrow and revert back to such manufacturer. Amends TCA Title 47, Chapter 31, Part 1.

On motion, Senate Bill No. 2670 was made to conform with **House Bill No. 2900**.

On motion, House Bill No. 2900, on same subject, was substituted for Senate Bill No. 2670.

Senator Kyle moved that **House Bill No. 2900** be placed at the heel of the calendar for today, which motion prevailed.

Senate Bill No. 2737 -- Telecommunications -- Regulates the filing of telecommunications tariffs with Tennessee Regulatory Authority. Amends TCA Section 65-5-201.

Senator Trail moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 65-5-201, is amended by adding the following language to be appropriately designated as subsection (c):

(c) Notwithstanding any other provision of law, the tariffs of incumbent local exchange telephone companies establishing rates and/or terms for telecommunications services shall be filed with the authority and shall be effective twenty-one (21) days after filing, subject to the following requirements:

(1) Tariffs establishing rates or terms that are valid only for one hundred eighty (180) days or less shall be effective one (1) business day after filing.

(2) Tariffs may be revoked by the authority, after notice and a hearing.

(3) Tariffs may be suspended pending such hearing on showing by a complaining party:

(A) that the complaining party has filed a complaint before the authority alleging with particularity that the tariff violates a specific law;

(B) that the complaining party would be injured as a result of the tariff and has specifically alleged how it would be so injured; and

(C) that the complaining party has a substantial likelihood of prevailing on the merits of its complaint.

In the absence of any complaining party, the authority may suspend a tariff pending a hearing, on its own motion, upon finding

such suspension to be in the public interest. The standard established

herein for suspension of tariffs shall apply at all times, including the twenty-one (21) or one (1) day period between filing and effectiveness.

The standard established herein for suspension of tariffs shall not be applicable in any way to the determination by the authority of whether to convene a contested case to consider revocation of a tariff. The authority may choose to convene a contested case, or decline to convene a contested case, in its own discretion, to promote the public interest. The standard established herein for suspension of tariffs shall not be applicable in any way to any decision by the authority regarding revocation of a tariff.

(4) Nothing herein shall alter the existing power of the authority to review those rate increases which are governed by price regulation or rate of return.

(5) Notwithstanding the provisions of this section, the authority may, in its discretion, shorten the twenty-one (21) day period between filing and effectiveness for good cause shown.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Trail moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "In the absence of any complaining party, the authority may suspend a tariff" from subdivision (c)(3) of Section 1, as amended, and by substituting instead the language "The authority may suspend a tariff".

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 2737**, as amended, passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

Senate Bill No. 3377 -- Business and Commerce -- Requires general services commissioner to report annually numbers of bids by all businesses, including small and minority-owned businesses; report shall include purchase amounts awarded to all businesses.

Senator Kurita moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting the following:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 3, Part 8, is amended by deleting Sections 12-3-801 through 12-3-808 in their entirety and by substituting instead the following:

Section 12-3-801. This act shall be known and may be cited as the "Tennessee Minority Owned, Woman Owned and Small Business Procurement and Contracting Act".

Section 12-3-802. As used in this part, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of General Services;
- (2) "Department" means the Department of General Services;
- (3) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:
 - (A) African American (a person having origins in any of the black racial groups of Africa);
 - (B) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (C) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
 - (D) Native American (a person having origins in any of the original peoples of North America).

(4) "Minority owned business" means a minority owned business that is a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more minority individuals who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background;

(5) "Woman owned business" means a woman owned business that is a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one or more women; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more women and whose management and daily business operations are under the control of one (1) or more women;

(6) "Small business" means a business that is independently owned and operated, in accordance with the provisions of this part, and is not dominant in its field of operation;

(7) "Procurement and contracting" means the procurement of equipment, supplies, personal services, professional services, consulting services, construction contracts, and architectural and engineering services; and

(8) "State agency" means any department, office, institution of higher education, board, commission, or any other state agency that receives state funds.

Section 12-3-803. (a) The commissioner is authorized to adopt rules and regulations establishing criteria and standards for minority owned, woman owned and small businesses that are eligible to be included under this part. Such rules and regulations may also include methods by which eligibility can be verified.

(b) Such criteria and standards for eligibility shall include, but not be limited to, the number of employees, the volume of sales, the computed size status with other similar Tennessee businesses, and the total receipts or annual sales of any business or its affiliates and subsidiaries.

(c) The maximum number of employees and the maximum dollar value of a small business under such rules and regulations may vary from industry to industry to the extent necessary to reflect the differing characteristics of any relevant factors of each particular industry.

(d) Any firm desiring to be certified as a minority owned, woman owned or small business shall make application to the governor's office of diversity business enterprises on a form prescribed by such office.

(e) The commissioner may adopt any rules and regulations necessary to carry out the provisions of this part.

Section 12-3-804. (a) All state agencies are required to actively solicit bids and proposals for equipment, supplies, personal services, professional services, consulting services, construction contracts, and architectural and engineering services from minority owned, woman owned and small businesses in order to strive to obtain a fair proportion of procurements from minority owned, woman owned and small businesses. The amount of fair proportion shall be recommended annually by the governor's office of diversity business enterprise to the board of standards for its review and approval. In annually determining such amount of fair proportion, the board of standards shall establish, based on the recommendation of the governor's office of diversity business enterprise a separate amount of fair proportion for each of the four (4) subcategories of minority businesses set forth within § 12-3-802(3), woman owned businesses and small businesses. Nothing in this part shall be construed as establishing any mandatory goal or quota with respect to minority owned, woman owned or small businesses.

(b) Procurements shall not be deemed to be from either minority owned, woman owned or small businesses if the business with which such contracting is done is owned by or is under the controlling interest of another business which exceeds the limitations of § 12-3-803. No minority owned, woman owned or small business to which a contract has been awarded shall subcontract any portion of such contract with any business which exceeds the limitations of § 12-3-803 and continue to maintain eligibility under this part without express approval of the commissioner.

(c) As used in subsection (a), "actively solicit bids and/or proposals" may include contacting the governor's office of diversity business enterprise; reviewing compiled directories of minority owned, woman owned and small businesses; purchasing publication of notices within newspapers of general circulation or through electronic media; and inviting minority owned, woman owned and small businesses to submit bids or to obtain information pertaining to the submission of bids.

Section 12-3-805. The Departments of General Services, Finance and Administration, Transportation and Economic and Community Development, and the State Building Commission shall cooperate with the governor's office of diversity business enterprise in the design and implementation of procedures for the identification of minority owned, woman owned and small businesses, the selection for bid and proposal lists and the monitoring of procurements from minority owned, woman owned and small businesses.

Section 12-3-806. (a) The commissioner has the power, subject to regulation of the board of standards, to authorize any or all state departments, institutions, or agencies to purchase all or any specific types and classes of commodities or services, without following the procedures relating to the requisitioning of such commodities through the department.

(b) It is intended that delegation of purchase authority may be made by agency, by type of commodity or service, by dollar amount of purchase, or by any combination thereof, in order to reduce the purchase time required and to increase the amount of purchases made from minority owned, woman owned and small businesses.

Section 12-3-807. (a) The commissioner, as director of the governor's office of diversity business enterprise, shall appoint a diversity business program director to work in conjunction with the Departments of General Service, Finance and Administration, Transportation, Economic and Community Development and the State Building Commission to:

(1) Compile and maintain a comprehensive list of minority owned, woman owned and small businesses by cooperating with both governmental and private sector entities in locating potential sources for various products and services;

(2) Assist minority owned, woman owned and small businesses in complying with state procurement and contracting procedures and requirements;

(3) Examine requests from state agencies for the purchase of materials, supplies, equipment or services to help determine which invitations to bid and requests for proposals may offer increased opportunities for minority owned, woman owned and small businesses; and

(4) Make recommendations to appropriate state agencies for the simplification of procurement and contract specifications and terms in order to increase the opportunities of participation by minority owned, woman owned and small businesses.

(b) All state agencies shall fully cooperate with the governor's office of diversity business enterprise and shall provide staff support and any other assistance upon request of the commissioner. This cooperation specifically includes, but is not limited to, establishing and striving to achieve annual departmental or agency level internal goals for minority owned, woman owned and small business contracting. In establishing and striving to achieve these annual goals, each agency shall work closely with the governor's office of diversity business enterprise. Each agency shall provide as requested to the governor's office of diversity business enterprise periodic reports on upcoming procurement and contract opportunities and on the level of participation by minority owned, woman owned and small businesses in that agency's procurements and contracts.

Section 12-3-808. (a) The commissioner shall annually report, on or before each December 31, to the governor and to each member of the general assembly concerning the awarding of purchases to minority owned, woman owned and small businesses and the total value of awards made during the preceding fiscal year under the provisions of this part. The commissioner shall also include in such annual report the number, by category, of minority owned, woman owned and small businesses solicited; the number of bids received, by category, from minority owned, woman owned and small businesses; and the dollar amount of purchases awarded, by category, to minority owned, woman owned and small businesses.

(b) In annually reporting the information on minority owned, woman owned and small businesses, based upon information provided by vendors, the commissioner shall, in a separate section of the report, indicate the number of businesses solicited within each of the four (4) subcategories enumerated within § 12-3-802(3), the number of bids received from each of the four (4) subcategories enumerated within § 12-3-802(3), and the total number and dollar amount of all purchases awarded within each of the four (4) subcategories enumerated within § 12-3-802(3). For purposes of evaluation, the report shall also indicate the total number and dollar amount of all purchases by all state agencies during the reporting period.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3377**, as amended, passed its third and final consideration by the following vote:

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Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

Senate Bill No. 3383 -- Motor Vehicles, Titling and Registration -- Removes requirements that registration plates be debossed or embossed.

Senate Bill No. 3383 passed its third and final consideration by the following vote:

Ayes 26
Noes 3

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--26.

Senators voting no were: Cohen, Crowe and Kyle--3.

A motion to reconsider was tabled.

Senate Bill No. 3391 -- Unemployment Compensation -- Revises provisions for contesting unemployment insurance tax collected or administered by the Commissioner of Labor and Workforce Development. Amends TCA Section 9-8-402(a)(2).

Senate Bill No. 3391 passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senator Trail moved that **Senate Bill No. 3432** be placed on the calendar for Thursday, April 1, 2004, which motion prevailed.

Mr. Speaker Wilder moved that **Senate Bill No. 2205** be placed on the calendar for Monday, March 29, 2004, which motion prevailed.

Senator Dixon moved that **Senate Bill No. 2260** be placed on the calendar for Wednesday, March 31, 2004, which motion prevailed.

MOTION

Senator Crutchfield moved that the Proposed Schedule for the week of March 29, 2004, be adopted and made the action of the Senate, which motion prevailed.

**TENNESSEE STATE SENATE
103rd GENERAL ASSEMBLY**

**PROPOSED SCHEDULE
FOR THE WEEK OF MARCH 29, 2004**

MONDAY – March 29

5:00 p.m. Session – Senate Chamber

TUESDAY – March 30

8:30 a.m. – 10:30 a.m.	Finance, Ways & Means Committee
10:30 a.m. – 12:30 p.m.	State & Local Government Committee
12:30 p.m. – 1:30 p.m.	Lunch
1:30 p.m. – 3:30 p.m.	Commerce, Labor & Agriculture Committee
3:30 p.m. – 5:30 p.m.	Judiciary Committee

WEDNESDAY – March 31

8:30 a.m. – 9:30 a.m.	Education Committee
9:30 a.m. – 10:30 a.m.	General Welfare, Health & Human Resources
10:30 a.m. – 11:30 a.m.	Environment, Conservation & Tourism Committee
11:30 a.m. – 12:30 p.m.	Lunch
12:30 p.m. – 1:30 p.m.	Transportation Committee
1:30 p.m. – 3:00 p.m.	Government Operations Committee
3:00 p.m. – 3:30 p.m.	Caucus Meetings
3:30 p.m.	Session – Senate Chamber

THURSDAY – April 1

9:00 a.m. Session – Senate Chamber

OTHER MEETINGS:

Monday, March 29, 2004 –	Select Oversight Committee on Workers' Compensation 1:30 p.m. – Room 12/14 LP
Tuesday, March 30, 2004 –	Commerce, Labor & Agriculture Pre-Meeting 7:30 a.m. – Third Floor Conference Room

MOTION

Senator Dixon moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 1014**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 1014 -- Memorials, Recognition -- Gwendolyn E. Boyd, Memphis Alumnae Association Chapter of Delta Sigma Theta Sorority, Inc. Founders Day Speaker.

On motion of Senator Dixon, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 1014** was concurred in by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

MOTION

Senator Dixon moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 1024**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 1024 -- Memorials, Death -- Mrs. Mary Frances Robinson.

On motion of Senator Dixon, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 1024** was concurred in by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

MOTION

Senator Cooper moved that Rule 83(8) be suspended for the purpose of placing **Senate Bill No. 3311** on the calendar for the Committee on Commerce, Labor and Agriculture for Tuesday, March 30, 2004, which motion prevailed.

CALENDAR

Senator Kyle moved that **House Bill No. 2900** be placed on the calendar for Monday, April 5, 2004, which motion prevailed.

MOTION

On motion of Senator Graves, her name was added as sponsor of **House Joint Resolutions Nos. 986 and 989.**

On motion of Senator Burchett, his name was removed as sponsor of **Senate Bill No. 2602.**

On motion of Senator Person, his name was added as prime sponsor of **Senate Bill No. 2602.**

On motion of Senators McLeary, Dixon, Burks, Kilby and Harper, their names were added as sponsors of **Senate Bill No. 2277.**

On motion of Senator Crowe, his name was added as sponsor of **House Joint Resolutions Nos. 991 and 992.**

On motion of Senator Haynes, his name was added as sponsor of **House Joint Resolution No. 989.**

On motion of Senator McNally, his name was added as sponsor of **Senate Resolutions Nos. 139 and 140; and Senate Bill No. 3148.**

On motion of Senator Dixon, his name was added as sponsor of **House Joint Resolutions Nos. 994 and 995; and Senate Joint Resolutions Nos. 866 and 867.**

On motion of Senator Burks, her name was added as sponsor of **Senate Bills Nos. 2205, 2670 and 3050.**

ENGROSSED BILLS

March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 3383, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 2379, 2637, 2737, 3377 and 3391; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 866, 867, 868, 870 and 871; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 988 and 2338, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2746 and 2975, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 1015, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 1025, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 127, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2485, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3383, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 861, 862, 863 and 864; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 139 and 140; and Senate Joint Resolutions Nos. 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 859, 861, 862, 863, 864 and 865; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1014 and 1024, for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 105, for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2162, 2202, 2277, 2720, 2846, 3566, 3567 and 3568; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 849, 858, 985, 986, 987, 988, 989, 991, 992, 993, 994, 995 and 996; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

March 25, 2004

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1014 and 1024.

SIGNED

March 25, 2004

The Speaker announced that he had signed the following: House Joint Resolution No. 105.

SIGNED

March 25, 2004

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 849, 858, 985, 986, 987, 988, 989, 991, 992, 993, 994, 995 and 996.

SIGNED

March 25, 2004

The Speaker announced that he had signed the following: Senate Resolutions Nos. 139 and 140; and Senate Joint Resolutions Nos. 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 859, 861, 862, 863, 864 and 865.

MESSAGE FROM THE HOUSE

March 25, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2149, 2184, 2403, 2613, 2614, 2620, 2668, 2683, 2890, 2969, 3109, 3152 and 3477; and Senate Joint Resolutions

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Nos. 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 859, 861, 862, 863, 864 and 865; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK
March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 2149, 2184, 2403, 2613, 2614, 2620, 2668, 2683, 2890, 2969, 3109, 3152 and 3477; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

REPORT OF CHIEF ENGROSSING CLERK
March 25, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 859, 861, 862, 863, 864 and 865; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR
March 25, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830 and 872; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR
March 25, 2004

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 2316, 2488, 2603, 2703 and 2730; and Senate Joint Resolution No. 11; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #1

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, March 29, 2004: House Joint Resolutions Nos. 999,

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1000, 1001, 1004 and 1005; Senate Joint Resolutions Nos. 873, 874, 875, 876, 877 and 878; and Senate Resolutions Nos. 141, 142 and 143.

This the 25th day of March, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, March 29, 2004: Senate Bills Nos. 2211, 2598, 2663, 2701, 2716, 3354 and 3381.

This the 25th day of March, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Monday, March 29, 2004: Senate Bills Nos. 3481 and 3484.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, March 29, 2004: Senate Bills Nos. 560, 1161, 1884, 2128, 2299, 2304, 2684, 3008, 3340, 2661, 2722, 3219, 3233, 3259 and 2205.

This the 25th day of March, 2004.
CROWE, Chairperson.

**SENATE
MESSAGE CALENDAR**

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Monday, March 29, 2004: Senate Joint Resolution No. 693; and Senate Bills Nos. 112 and 2286.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 5:00 p.m., Monday, March 29, 2004, which motion prevailed.